

REMARKS

In the Office Action dated September 29, 2009, claims 1-24 were pending. Claims 1-5, 9-15 and 21-24 were rejected. Claims 6-8 and 16-20 were objected to. In response, claims 9 and 21 are amended. Accordingly, claims 1-24 remain pending in the present application. No new matter is added.

Applicant responds to the points raised in the Office Action as follows.

Claim Rejections - 35 U.S.C. §112

The Office Action indicates that claims 9-12 and 21-24 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant respectfully traverses the rejection.

Claims 9 and 21 are amended to recite an apparatus for carrying out a specific method identified in the claims from which dependent claims 9 and 21 depend. Accordingly, Applicant submits that claims 9 and 21 comply with 35 U.S.C. §112, second paragraph, and respectfully requests that the rejection be reconsidered and withdrawn.

Claims 10-12 and 22-24 are rejected as being dependent from rejected base claims. In view of the above amendments and discussion, claims 10-12 and 22-24 comply with 35 U.S.C. §112, second paragraph, and Applicant respectfully requests that the rejection of those claims be reconsidered and withdrawn.

Claim Rejections - 35 U.S.C. §102

The Office Action indicates that claims 1-5 and 13-15 are rejected under 35 U.S.C. §102(b) as being anticipated by Martens (WO 82/03920). Applicant respectfully traverses the rejection.

Present claim 1 calls for:

a possible echo of said test signal being received from said object at a particular first measuring moment, the possible echo being accepted as being the echo of said test signal only when an echo of the verification signal is received at a particular second measuring moment.

The cited portion of the disclosure of Martens discusses transducer signals that are provided to a rail section, where each transducer originates an ultrasonic signal and looks for a pulse echo signal in response to the same ultrasonic signal. Martens further discloses that each transducer looks for a loss of signal from another transducer by inspecting a certain time interval in which an ultrasonic signal from the other transducer is expected. In the absence of a through signal from one transducer to another,

Martens appears to indicate a defect or faulty equipment. See, page 11, line 22 - page 12, line 1 of Martens.

Accordingly, Martens does not teach, or even suggest, any type of conditional response in relation to receiving a verification signal echo at a particular second measuring moment, such as is indicated in claim 1. That is, while Martens appears to disclose two transducers that look for a loss of signal from each other, there is no apparent impact of such an operation on the originating ultrasonic signal or the pulse echo signal from each transducer. In particular, Martens does not appear to teach, or even suggest, at least the elements in the above cited portion of claim 1. Therefore, claim 1 recites a number of elements that are not disclosed, or even suggested, in the Martens reference.

Likewise, claim 2 recites in part:

a possible echo of said test signal being received from said object at a particular second measuring moment, the possible echo being accepted as being the echo of said test signal only when an echo of the verification signal is received at a particular first measuring moment.

As discussed above, Martens does not appear to teach or suggest the acceptance of a received echo signal being contingent upon whether an echo of a verification signal is received within a particular time frame, as is recited in claim 2. Instead, Martens indicates a presence of a defect or faulty equipment when a

through signal does not arrive from another transducer within the expected time interval. Thus, Martens does not teach, or even suggest, "the possible echo being accepted as being the echo of said test signal only when an echo of the verification signal is received at a particular first measuring moment," as recited in claim 2.

Accordingly, claims 1 and 2 recite elements that are not taught or even suggested in the cited reference of Martens. Applicant therefore respectfully submits that the rejection of claims 1 and 2 under 35 U.S.C. §102(b) over Martens is overcome, and respectfully requests that it be reconsidered and withdrawn.

Claims 3-5 and 13-15 ultimately depend from claims 1 or 2, and should be allowable for at least the reasons that claims 1 and 2 are allowable over Martens and also because of the further limitations recited in each of the dependent claims. Applicant therefore respectfully submits that the rejection of claims 3-5 and 13-15 under 35 U.S.C. §102(b) over Martens is overcome, and respectfully requests that it be reconsidered and withdrawn.

Allowable Subject Matter

Applicant acknowledges the allowability of claims 6-8 and 16-20, if rewritten in independent form to include all the

limitations of the base claim and all the intervening claims. In view of the above discussion, Applicant respectfully submits that claims 6-8 and 16-20 depend from claims that are allowable. Accordingly, Applicant respectfully submits that claims 6-8 and 16-20 are in condition for allowance.

Conclusion

In view of the above amendments and discussion, Applicant submits that the application is now in condition for allowance, and earnestly solicits notice to that effect. The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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